

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File No. EB-07-SE-258
	)	
	)	Acct. No. 200832100026
Philips Consumer Electronics North America	)	
	)	FRN No. 0004500187

**ORDER**

**Adopted: April 9, 2008**

**Released: April 10, 2008**

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Philips Consumer Electronics North America (“Philips”). The Consent Decree terminates an investigation by the Bureau against Philips for possible violations of Section 330(c) of the Communications Act of 1934, as amended (“Act”),<sup>1</sup> and Section 15.120(d)(2) of the Commission’s Rules (“Rules”),<sup>2</sup> regarding the interstate shipment, after March 15, 2006, of digital television receivers that do not comply with the V-Chip technology requirements because they lack the ability to adapt to new rating systems.

2. The Bureau and Philips have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Philips possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act,<sup>3</sup> and sections 0.111 and 0.311 of the Rules,<sup>4</sup> the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

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<sup>1</sup> 47 U.S.C. § 303(c).

<sup>2</sup> 47 C.F.R. § 15.120(d)(2).

<sup>3</sup> 47 U.S.C. § 154(i), 503(b).

<sup>4</sup> 47 C.F.R. §§ 0.111 and 0.311.

7. **IT IS FURTHER ORDERED** that all third-party complaints against Philips before the Bureau related to the above-captioned-investigations as of the date of this Consent Decree **ARE DISMISSED**.

8. **IT IS FURTHER ORDERED** that Philips shall make its voluntary contribution to the United States Treasury, as specified in the Consent Decree, by credit card through the Commission's Revenue and Receivables Operations Group at (202) 418-1995, or by mailing a check or similar instrument payable to the order of the Federal Communications Commission, to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code).

9. **IT IS FURTHER ORDERED** that Philips will file reports with the Commission ninety days after the Effective Date, twelve months after the Effective Date, and two years after the Effective Date. Each report shall include a compliance certificate from an officer, as an agent of Philips, stating that the officer has personal knowledge that Philips has established operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer's compliance certification. All reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

10. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Philips' counsel, David Siddall, Esq. and Lawrence R. Sidman, Esq., Paul, Hastings, Janofsky & Walker, 875 15<sup>th</sup> Street, NW, Washington, DC 20005.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith  
Chief, Enforcement Bureau

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Federal Communications Commission  
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In the Matter of	)	File No. EB-07-SE-258
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	)	Acct. No. 200832100026
Philips Consumer Electronics North America	)	
	)	FRN No. 0004500187

**CONSENT DECREE**

The Enforcement Bureau (“Bureau”) and Philips Electronics North America Corporation (“Philips”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether Philips violated Section 330(c) of the Communications Act of 1934, as amended (“Act”),<sup>1</sup> and Section 15.120(d)(2) of the Commission’s Rules (“Rules”),<sup>2</sup> regarding the interstate shipment, after March 15, 2006, of digital television receivers that do not comply with the V-Chip technology requirements because they lack the ability to adapt to new rating systems.

**I. DEFINITIONS**

1. For the purposes of this Consent Decree, the following definitions shall apply:
  - (a) “Act” means the Communications Act of 1934, as amended U.S.C. §§ 151 *et seq.*
  - (b) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
  - (c) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
  - (d) “Complaints” means third-party complaints that may have been received by, or are in the possession of, the Commission or Bureau alleging violations of the V-Chip technology requirements.
  - (e) “Compliance Plan” means the program described in this Consent Decree at paragraph 8 and, as summarized in Appendix A, attached to this Consent Decree.
  - (f) “Digital Television Receivers” or “DTV Receivers” means (i) digital television broadcast receivers with display screens in the 4:3 aspect ratio measuring 13 inches or larger diagonally, (ii) digital television broadcast receivers with display screens in the 16:9 aspect ratio measuring 7.8 inches or larger vertically, and (iii) devices with digital television broadcast tuners sold without an accompanying display device, such as DVR recorders.
  - (g) “Effective Date” means the date on which the Bureau releases the Adopting Order.

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<sup>1</sup> 47 U.S.C. § 303(c).

<sup>2</sup> 47 C.F.R. § 15.120(d)(2).

- (h) “Investigation” means the investigations commenced by the Bureau’s August 6, 2007 and November 26, 2007 Letters of Inquiry<sup>3</sup> regarding whether Philips violated section 330(c) of the Act, and section 15.120(d)(2) of the Rules, by shipping interstate digital television receivers that do not comply with the V-Chip technology requirements because they lack the ability to adapt to new rating systems.
- (i) “Order” or “Adopting Order” means an Order of the Bureau adopting the terms of this Consent decree without change, addition, deletion, or modification.
- (j) “Parties” means Philips and the Bureau.
- (k) “Philips” means Philips Electronics North America Corporation.
- (l) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

## II. BACKGROUND

2. Section 303(x) of the Act directs the Commission to prescribe rules that require television receivers with picture screens 13 inches or greater shipped in interstate commerce or manufactured in the United States to be equipped with a feature designed to enable viewers to block the display of all programs with a common rating.<sup>4</sup> Section 330(c) of the Act provides that no person shall ship in interstate commerce or manufacture in the United States television receivers that do not comply with rules prescribed by the Commission pursuant to Section 303(x).<sup>5</sup> The Commission adopted program blocking capability requirements for both analog and digital television (“DTV”) receivers in 1998.<sup>6</sup> In 2004, the Commission adopted specific technical standards to implement V-Chip functionality for DTV receivers (“V-Chip technology requirements”).<sup>7</sup> The DTV V-Chip technology requirements provide that, effective March 15, 2006, digital television receivers with picture screens 13 inches or greater that are shipped in interstate commerce must be equipped with V-Chip technology to allow blocking of the display of programming based on its content and be able to respond to changes in the content advisory rating system.<sup>8</sup>

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<sup>3</sup> See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Rick Dorl, General Counsel, Consumers Electronics Division, Philips Consumer Electronics North America (August 6, 2007) (“August 6, 2007 LOI”); Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Rick Dorl, General Counsel, Consumers Electronics Division, Philips Consumer Electronics North America (November 26, 2007) (“November 26, 2007 LOI”).

<sup>4</sup> 47 U.S.C. § 303(x).

<sup>5</sup> 47 U.S.C. § 330(c).

<sup>6</sup> *In the Matter of Technical Requirements to Enable Blocking of Video Programming Based on Program Rating, Implementation of Sections 551(c), (d), and (e) of the Telecommunications Act of 1996*, Report and Order, 13 FCC Rcd 11248 (1998).

<sup>7</sup> *In the Matter of Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, 19 FCC Rcd 18279 (2004). The V-Chip technology requirements also apply to devices sold without an accompanying display device. *Id.* at 18348.

<sup>8</sup> 47 C.F.R. § 15.120(d)(2).

3. On August 6, 2007, the Bureau issued a letter of inquiry (LOI) to Philips.<sup>9</sup> The August 6, 2007 LOI directed Philips, among other things, to submit a sworn written response to a series of questions relating to its compliance with the DTV V-Chip technology requirements. Philips responded to the August 6, 2007 LOI on October 19, 2007,<sup>10</sup> and submitted a follow-up response on November 9, 2007.<sup>11</sup> On November 26, 2007, the Bureau issued a second LOI to Philips.<sup>12</sup> Philips responded to the November 26, 2007 LOI on January 18, 2008,<sup>13</sup> and submitted a follow-up response on January 28, 2008.<sup>14</sup>

### III. TERMS OF AGREEMENT

4. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

5. **Jurisdiction.** Philips agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

6. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other final Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

7. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation and dismiss the Complaint. In consideration for termination by the Bureau of the Investigation and dismissal of the Complaint in accordance with the terms of this Consent Decree, Philips agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Philips concerning the matters that were the subject of the Investigation. The Bureau also agrees that it will not use the facts developed in this investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or

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<sup>9</sup> See August 6, 2007 LOI.

<sup>10</sup> See Letter from James E. Galese, Senior Vice President and Chief Financial Officer, Philips Consumer Electronics North America, to Kathryn Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (October 19, 2007).

<sup>11</sup> See Letter from James E. Galese, Senior Vice President and Chief Financial Officer, Philips Consumer Electronics North America, to Kathryn Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (November 9, 2007).

<sup>12</sup> See November 26, 2007 LOI.

<sup>13</sup> See Letter from Andrew R. Mintz, Senior Vice President, Philips Consumer Electronics North America, to Kathryn Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (January 18, 2008).

<sup>14</sup> Letter from James E. Galese, Senior Vice President and Chief Financial Officer, Philips Consumer Electronics North America, to Kathryn Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (January 28, 2008).

take any action on its own motion against Philips with respect to Philips' basic qualifications, including its character qualifications, to hold Commission authorizations.

8. **Compliance Plan.** For purposes of settling the matters set forth herein, Philips agrees to maintain a Compliance Plan related to future compliance with the Act, the Commission's Rules, and the Commission's Orders. The Compliance Plan will include the following components.

- (a) **Interstate Shipment of New DTV Receivers.** Philips agrees that every new model of DTV receiver shipped interstate by Philips on or after the Effective Date of this Consent Decree will be compliant with Section 15.120(d)(2) of the Rules.
- (b) **Design, Development and Manufacture of DTV Receivers.** Philips agrees to implement a Compliance Plan (summarized in Appendix A attached hereto and incorporated by reference) to ensure that the design, development, and manufacture of new DTV receivers that it ships in interstate commerce complies with the Act and the Rules.
- (c) **Receiver Upgrades.** Philips agrees, for a period of five years after the Effective Date of this Consent Decree, to post a notice on its website that advises consumers that upgradeable models are capable of obtaining enhanced ratings blocking capability via downloadable software from Philips' website to a computer which could then be used to update the DTV receiver's software. Philips agrees to provide an email notification to customers who have registered their DTV Receiver with Philips as of the Effective Date of this Consent Decree of the availability of this downloadable software for upgradeable models. In addition, Philips will provide, upon consumer request, for a period of five years after the Effective Date of this Consent Decree, a memory stick that can be used to plug into an applicable DTV receiver's USB port which would automatically update the receiver's software when the receiver is turned on.
- (d) **Compliance Reports.** Philips will file compliance reports with the Commission ninety days after the Effective Date, twelve months after the Effective Date, and twenty-four months after the Effective Date. Each compliance report shall include a compliance certificate from an officer, as an agent of Philips, stating that the officer has personal knowledge that Philips has established operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer's compliance certification. All compliance reports shall be submitted to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.
- (e) **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire twenty-four months after the Effective Date.

9. **Voluntary Contribution.** Philips agrees that it will make a voluntary contribution to the United States Treasury in the amount of \$450,000. The payment will be made within 30 days after the Effective Date of the Adopting Order. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the



FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code).

10. **Waivers.** Philips waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Bureau issues an Order adopting the Consent Decree without change, addition, modification, or deletion. Philips shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Philips nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Philips shall waive any statutory right to a trial *de novo*. Philips hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

11. **Severability.** The Parties agree that if any of the provisions of the Adopting Order or the Consent Decree shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Adopting Order or Consent Decree, but rather the entire Adopting Order or Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

12. **Subsequent Rule or Order.** The Parties agree that if any provision of this Consent Decree conflicts with any subsequent rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which Philips does not expressly consent) that provision will be superseded by such Commission rule or Order.

13. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission's Rules and Orders.

14. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

15. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

16. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

17. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

\_\_\_\_\_  
Kris Anne Monteith  
Chief  
Enforcement Bureau

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Date

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Joseph Innamorati  
Senior Vice President, Chief Legal Officer  
Philips Electronics North America Corporation

\_\_\_\_\_  
Date



**APPENDIX A****Compliance Plan  
of  
Philips Electronics North America Corporation (“Philips”)**

- I. Philips has established, on or as of the Effective Date of this Consent Decree, an updated management process to ensure ongoing and future compliance with Commission Rules and regulations. The Philips management personnel delineated in paragraph II below have been charged with monitoring, on an on-going basis, all relevant Commission Rules and regulations applying to digital television (“DTV”) receivers shipped in interstate commerce. This process is to ensure the dissemination of such Rules and regulations globally for Philips, as well as the implementation of such Rules and regulations in the design, development and manufacture of all DTV receivers.
- II. Philips has designated two of its management personnel to administer this Compliance Plan and be directly responsible for Philips’ DTV receivers compliance with the Commission’s Rules and this Consent Decree. One of these management personnel will have substantial technical experience and the other will have substantial commercial experience. In the event one of these management personnel is unable to continue performing these functions, these functions will be performed by management personnel with similar responsibilities. Each of the management personnel will engage in an on-going review of Commission Rules, orders, and regulations in order to create a check and balance approach to compliance.
- III. Both management personnel will be responsible for communicating Commission Rules and regulations applicable to DTV receivers to Philips’ design and manufacturing centers. Then, the completed design and specifications for each new DTV receiver model will be analyzed by the Design Center and the results reviewed by both management personnel independently to ensure compliance with Commission Rules, orders, and regulations applicable to DTV receivers. Any findings of noncompliance with Commission Rules or regulations in the design of any DTV receiver will result in a change of the design and specifications for that DTV receiver in order to bring such DTV receiver into compliance.
- IV. In addition, DTV receiver models will be sampled for compliance with Commission Rules and regulations in Philips’ testing center. This testing process is reviewed by both management personnel independently to ensure compliance with Commission Rules, orders, and regulations applicable to DTV receivers. Any findings of noncompliance with Commission Rules or regulations in the testing of any DTV receiver will result in an immediate hold on such DTV receiver.
- V. In the event of any question concerning appropriate compliance with the Commission Rules or regulations in either the design phase or the testing phase, either of the two management personnel identified in section II above will consult with regulatory counsel.
- VI. This process includes the verification of RRTx1 and RRTx5 functionality for DTV receiver models at two steps: (1) during the design verification phase (field test) and (2) during the manufacturing phase. This process will apply to all Philips-designed or manufactured digital televisions shipped in interstate commerce on or after the Effective Date.
- VII. Any new DTV receiver found not to be in compliance with the Commission’s Rules and requirements will not be shipped interstate by Philips unless all necessary corrections have been made.